

FEB 25 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

PATRICK JEROME HOLSWORTH,

Defendant - Appellant.

No. 09-30162

D.C. No. 2:88-cr-00243-MJP

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Marsha J. Pechman, District Judge, Presiding

Argued and Submitted February 5, 2010
Seattle, Washington

Before: ALARCÓN, W. FLETCHER and RAWLINSON, Circuit Judges.

Patrick Jerome Holsworth (Holsworth) appeals the district court's denial of his motion to prevent exercise of jurisdiction by the United States Parole Commission over him.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Holsworth asserted that the district court had jurisdiction over his motion pursuant to Rule 47 of the Federal Rules of Criminal Procedure. Rule 47, however, is procedural in nature and does not provide a basis for jurisdiction in federal court. *See* Fed. R. Crim. P. 47. Because the district court lacked jurisdiction, it lacked authority to address the merits of Holsworth's motion. *See Mayfield v. United States*, 588 F.3d 1252, 1258 (9th Cir. 2009).

VACATED AND REMANDED FOR DISMISSAL.